

---

---

# HOUSE BILL No. 1261

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-14-8; IC 13-17-3-16.

**Synopsis:** Mercury variances. Requires rulemaking concerning variances from rules concerning mercury contamination and concerning air emissions of mercury, lead, and other hazardous materials.

**Effective:** Upon passage; July 1, 2003.

---

---

## Avery

---

---

January 13, 2003, read first time and referred to Committee on Environmental Affairs.

---

---

C  
o  
p  
y



Introduced

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1261

---

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 13-14-8-8 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) If a person who  
3 is affected by a rule adopted by a board believes that the imposition of  
4 the rule would impose an undue hardship or burden upon the person,  
5 the person may apply to the commissioner for a variance from the rule.  
6 (b) The commissioner may hold a public hearing on an application  
7 submitted under subsection (a).  
8 (c) If the commissioner determines that immediate compliance with  
9 the rule would impose an undue hardship or burden upon the applicant,  
10 the commissioner, except as provided in **subsection (e) and** section 9  
11 of this chapter, may grant a variance from the rule for any period not  
12 exceeding one (1) year.  
13 (d) Upon the request of an applicant, the commissioner may renew  
14 an expired variance if the commissioner determines that compliance  
15 with the rule would continue to impose an undue hardship or burden  
16 upon the applicant. Except as provided in section 9 of this chapter,  
17 each renewal may be granted for a period not exceeding one (1) year.

2003

IN 1261—LS 7519/DI 52+



C  
o  
p  
y

(e) The commissioner may not issue a variance to a person under rules adopted under section 10(a) of this chapter for:

(1) mercury; or

(2) methyl mercury;

after September 1, 2003, if the air pollution control board fails to meet the schedule under section 10(d) of this chapter for adopting rules described in section 10(c) of this chapter.

(f) As used in this section, undue hardship or burden is based on 40 CFR Part 132, Appendix F, Procedure 2, which allows a variance to be granted for economic considerations only if the failure to grant the variance would result in substantial and widespread economic and social impact.

SECTION 2. IC 13-14-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The water pollution control board may adopt rules that:

(1) allow the commissioner to issue a variance to a person from the water quality standards for:

(A) mercury; or

(B) methyl mercury; and

(2) require that the person that applies for the variance take specific actions to make tangible and significant reductions in the mercury levels in the discharge not caused by air deposition of mercury.

(b) Rules of the water pollution control board adopted under subsection (a) must establish criteria to allow for a determination of the substantial and widespread economic and social impact without detailed analysis or applications by the person that applies for the variance.

(c) The air pollution control board may adopt rules for facilities that have the potential to emit into the air more than two hundred (200) pounds per year of mercury or mercury compounds, or both. The rules must either:

(1) require at least ninety percent (90%) reductions in emissions from the facilities of mercury or mercury compounds, or both; or

(2) set air emission limits sufficient to ensure that, under the worst case operating conditions, the air emissions from the facility during a rainfall event that is likely to occur at least once a month will not cause rain to exceed the water quality standards.

(d) The air pollution control board must adopt the rules referred to in subsection (c) as follows:

C  
o  
p  
y



(1) **Begin the rulemaking process before July 1, 2003.**

(2) **Publish a draft rule before March 1, 2004.**

(3) **Publish a preliminarily adopted rule before January 1, 2005.**

(4) **Adopt the rule before June 1, 2005.**

(e) A board may adopt rules under IC 4-22-2 to specify the following with respect to any of the board's rules:

(1) Criteria to define what constitutes an undue hardship or burden, as used in section 8 of this chapter, for the purposes of that rule.

(2) Procedures for making determinations on applications for variances from that rule.

SECTION 3. IC 13-17-3-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16. The board shall adopt rules and standards that limit the emission to air of mercury, lead, and other hazardous materials that:**

(1) **persist or bioaccumulate in the environment; and**

(2) **contribute to levels in water that exceed the water quality standards established under IC 13-18-4-1.**

**The air emission limits must be sufficient to ensure that, under the worst case operating conditions, the air emissions during a rainfall event that is likely to occur at least once a month will not cause the rain to exceed the water quality standards.**

SECTION 4. **An emergency is declared for this act.**

C  
o  
p  
y

